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A zoning primer by the Advisory Committee...

Washington

1922

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U. S. *Dept. of commerce. Advisory committee on zoning.*

... A zoning primer by the Advisory committee on zoning appointed by Secretary Hoover ... Washington, Govt. print. off., 1922.

iii, 7 p. 1 illus. 25cm.

At head of title: Department of commerce, Washington.

Copy in Avery Library.

1. Cities and towns—Planning. I. Title.

53834

Library of Congress TH224.U6 1922 22-26500

Copy 2. [3] VP COPY

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TECHNICAL MICROFORM DATA

FILM SIZE: 35mm REDUCTION RATIO: 10:1 IMAGE PLACEMENT: IA (IIA) IB IIB

DATE FILMED: 2-28-97 INITIALS: MS

TRACKING # : 22076

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DEPARTMENT OF COMMERCE
WASHINGTON

A ZONING PRIMER

BY

THE ADVISORY COMMITTEE ON ZONING

APPOINTED BY SECRETARY HOOVER

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PRICE 5 CENTS

SOLD ONLY BY THE SUPERINTENDENT OF DOCUMENTS
GOVERNMENT PRINTING OFFICE, WASHINGTON, D. C.

WASHINGTON
GOVERNMENT PRINTING OFFICE
1922

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A ZONING PRIMER.

WHAT IS ZONING?

Zoning is the application of common sense and fairness to the public regulations governing the use of private real estate. It is a painstaking, honest effort to provide each district or neighborhood, as nearly as practicable, with *just such protection* and *just such liberty* as are sensible in *that particular district*. It avoids the error of trying to apply exactly the same building regulations to every part of a city or town regardless of whether it is a suburban residence section, or a factory district, or a business and financial center. It fosters civic spirit by creating confidence in the justice and stability of the protection afforded.

Zoning gives everyone who lives or does business in a community a chance for the reasonable enjoyment of his rights. At the same time it protects him from unreasonable injury by neighbors who would seek private gain at his expense.

Zoning regulations differ in different districts according to the determined uses of the land for residence, business, or manufacturing, and according to the advisable heights and ground areas.

But these differing regulations are *the same for all districts of the same type*. They treat all men alike.

WHY DO WE NEED ZONING?

Some one has asked, "Does your city keep its gas range in the parlor and its piano in the kitchen?" That is what many an American city permits its household to do for it.

We know what to think of a household in which an undisciplined daughter makes fudge in the parlor, in which her sister leaves soiled clothes soaking in the bathtub, while father throws his muddy shoes on the stairs, and little Johnny makes beautiful mud pies on the front steps.

Yet many American cities do the same sort of thing when they allow stores to crowd in at random among private dwellings, and factories and public garages to come elbowing in among neat retail stores or well-kept apartment houses. Cities do no better when they allow office buildings so tall and bulky and so closely crowded that the lower floors not only become too dark and unsatisfactory for human use but for that very reason fail to earn a fair cash return to the individual investors.

"Live and let live" is a better motto for the modern city than the savage one of "dog eat dog."

It is this stupid, wasteful jumble which zoning will prevent and gradually correct. We must remember, however, that while zoning

is a very important part of city planning, it should go hand in hand with planning streets and providing for parks and playgrounds and other essential features of a well-equipped city. Alone it is no universal panacea for all municipal ills, but as part of a larger program it pays the city and the citizens a quicker return than any other form of civic improvement.

ZONING PROTECTS PROPERTY AND HEALTH.

Suppose you have just bought some land in a neighborhood of homes and built a cozy little house. There are two vacant lots south of you. If your town is zoned, no one can put up a large apartment house on those lots, overshadowing your home, stealing your sunshine and spoiling the investment of 20 years' saving. Nor is anyone at liberty to erect a noisy, malodorous public garage to keep you awake nights or to drive you to sell out for half of what you put into your home.

If a town is zoned, property values become more stable, mortgage companies are more ready to lend money, and more houses can be built.

A zoning law, if enacted in time, prevents an apartment house from becoming a giant airless hive, housing human beings like crowded bees. It provides that buildings may not be so high and so close that men and women must work in rooms never freshened by sunshine or lighted from the open sky.

ZONING REDUCES THE COST OF LIVING.

By zoning, millions of waste from the scrapping of buildings in "blighted districts" may be eliminated.

A "blighted district" is a district, originally developed for residence or industry, in the future of which people have lost confidence.

The causes of such "blight" are manifold. The most familiar case is that of a residential district into which there have begun to creep various uses threatening rapid destruction of its value for residences—such new uses as sporadic stores, or factories, or junk yards. It is not that a few such inappropriate uses really spoil the district, but that people having lost confidence, start a panic like a "run on the bank." Hundreds of them hurry up to "unload" their properties at a sacrifice for any kind of use, no matter how objectionable to their neighbors—and the "blight" is on! Dwellings worth in the aggregate millions of dollars for the purposes for which they were built, and physically fit to serve those purposes for many years to come, with a moderate investment in alterations and improvements, are thus annually abandoned to purposes for which they are not fit, or are left to stand practically idle. Expensive public services of water, gas, electricity, sewers, and transportation are maintained at great waste in order to get through the "blighted" district to the more distant and newly fashionable location.

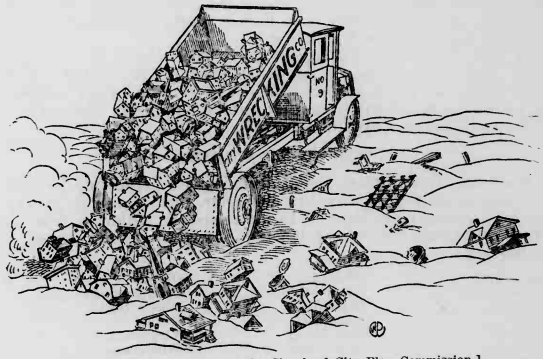
The total economic loss is enormous, and this loss and the risk of it are paid by the people, in the price of house rents or otherwise, as inevitably as they pay the price of the enormous fire losses, either directly or through insurance.

Proper zoning cuts these losses at their source, just as proper building regulations and fire protection cut fire losses at their source.

Again, miles of streets and sewers and other utilities, such as are ordinarily built when land is newly subdivided for dwellings, need never be constructed if we know that these areas will be devoted mainly to large factories. Industry will be more efficient, as well as homes more wholesome, if kept generally separate. Separation need not mean great distances for workers to travel. Concentration of uses and a fair apportioning of districts should reduce the amount of all transportation and secure economies not only directly for the worker but indirectly in the costs of production and marketing of goods.

If zoning can reduce the cost of living, why not have it?

WASTE IN CITY BUILDING!



[Illustration by courtesy of the Cleveland City Plan Commission.]

Owing to haphazard city growth hundreds of perfectly good buildings go to the dump each year.

ZONING IS LEGAL.

When a zoning law is properly drawn there is no doubt that the courts will support it. Enough favorable decisions have been handed down to show that the courts regard regulation of the uses of land and structures thereon, in accordance with the *kind* of district in which they are situated, as a reasonable exercise of the police power "for the public health, safety, and general welfare."

In fact, the courts have approved zoning whenever it was done sensibly and comprehensively. The first case arose in Boston, Mass., where two different heights for future buildings were fixed through-

out the city. This was supported by the highest court of Massachusetts and the United States Supreme Court. (Welch *v.* Swasey, 214 U. S. 91.)

The next important case arose in Los Angeles, Calif., where, under a zoning plan dividing the city into industrial and residential districts, a brickyard in a residential district was ousted, although it had been in existence for many years. This was upheld by the California courts and also by the United States Supreme Court as a proper exercise of the police power. Modern zoning ordinances are not retroactive, however. (Hadacheck *v.* Sebastian, 239 U. S. 394.)

The best zoning case to show how far the courts will go in distinguishing between zoning districts is State of Ohio ex rel. Morris *v.* Osborn et al., 22 N. P. (N. S.) 549. The court held that one and two-family houses were less subject to noise, litter, danger of contagion, and fire risk than multi-family houses, and that they could be placed in different districts under the police power. This case, however, was not appealed to a higher court, and we can not say whether other States will follow it.

In New York State the highest court has declared the zoning of New York City to be constitutional, stating that zoning can be done under the police power if done with care and good judgment so as not to be arbitrary or confiscatory. (Lincoln Trust Co. *v.* Williams Building Corporation, 229 N. Y. 313.)

HOW TO GET STARTED.

Find out if your State has an enabling act permitting localities to zone, even if your city has a charter with home-rule powers. If not, the first move must be to secure specific authority from the State legislature. In the following States zoning is already so authorized:

California.	Michigan.	Oregon.
Illinois.	Minnesota.[1]	Pennsylvania.[1]
Indiana.	Missouri.[1]	Rhode Island.
Iowa.[1]	Nebraska.[1]	Texas.[1]
Kansas.[1]	New Jersey.	Virginia.
Louisiana.[1]	New York.	Wisconsin.
Massachusetts.	Ohio.	

This list does not include Connecticut, District of Columbia, South Carolina, and Tennessee, acts of which apply to a particular city, and North Carolina, which has recently passed a city planning act granting zoning powers to city plan commissions.

There must be some local official body to initiate the work of zoning. If there is a planning board or commission, that is the logical body to take up the problem. If there is no such body, one should be created, because zoning, to be done with wise foresight, must take account not only of existing conditions and obvious tendencies of growth but of probable changes and improvements of many sorts. It is part of the general planning problem. It relates to the transportation system, including streets, street railways and other local passenger transportation, railroad freight and passenger service, and water-borne commerce if any. It relates also to public works and utilities, to parks, schools, and many special public and private undertakings.

[1] Act does not apply to all classes of cities.

A ZONING PROGRAM.

Surveys.—A zoning ordinance needs to be based on a comprehensive and detailed study of the precise *local conditions*, both present and prospective. What fits one city or town may be a bad misfit for another. There is no short cut to good zoning in any community through blindly accepting what has been done for another community. The only safe path is a thorough, open-minded examination of the facts in each community as to existing uses, existing densities, and heights of buildings, the customs of the people, and the trend of affairs. In every city there are citizens and organizations having in their possession valuable knowledge of local conditions. These have a large contribution to make to those responsible for zoning, although those who have lived their whole lives in a community do not necessarily realize all that is going on about them.

The zoning of a city requires expert professional knowledge just as the presentation of a case in court requires legal training. But just as the lawyer depends upon the layman to secure his facts, so must the professional zoning expert call upon the citizens for much of the accurate information upon which any good zoning regulations must be based.

Technical advice.—The practice of zoning is relatively new in America. We are feeling our way and must learn by experience. Those who have had experience tend to become expert, with broader knowledge of practices that are proving effective. These men are becoming gradually more skilled in the methods of getting at the essential facts of any local situation, and in the interpretation of those facts. If they possess insight and sane judgment, their advice becomes increasingly valuable.

Scope of a zoning ordinance.—A zoning ordinance consists of one or more maps dividing the city into different kinds of districts; and a statement of methods of regulation to be employed in each district in regard to the use to which property may be put, the height and size of buildings, and the amount of space to be left vacant, with adequate provisions for enforcement.

Getting public support.—In the process of drafting a tentative ordinance, it is important, by means of full public discussion, to be sure that the ordinance is an "application of common sense and fairness" and will "provide each district, as nearly as practicable, with *just such protection* and *just such liberty* as are sensible in that particular district." It is essential likewise to be sure that public opinion, as a whole, will support it.

Zoning in operation.—A zoning ordinance is of value only as it is properly enforced. Because of the difficulty in making with precision the forecasts on which it is based, its operation should be closely followed by those who most intimately understand the reasons for its provisions. Thus, improvements and adjustments may from time to time be made intelligently. It is to furnish in exceptional cases a means for remedying possible injustice that, in some States, provision is made for a board of adjustment or appeals.

It is obvious from the nature of the case that, even if a zoning ordinance were drawn with superhuman perfection, time and the natural growth of the community might show the need of modifica-

tions. The purpose of a zoning ordinance is not to stifle growth, but only to insure that instead of taking place sporadically and wastefully it shall go on in an orderly way, in response to generally recognized needs and with due notice to all concerned.

WHAT CITIES AND TOWNS HAVE ACCOMPLISHED BY ZONING.

Undoubtedly the most convincing statement which could be made in regard to the value of zoning is that practically all the large cities of the United States now feel that it is impossible to continue to develop further without the adoption of a building zone plan. New York, St. Louis, Los Angeles, San Francisco, Milwaukee, Washington, Newark, Rochester, Omaha, not to mention smaller cities such as East Orange, N. J., Berkeley, Calif., and Brockton, Mass., already have zoning ordinances in operation; while Chicago, Philadelphia, Detroit, Cleveland, Baltimore, Pittsburgh, Portland, Oreg., Seattle, and many others have zoning plans in progress. Moreover, it is not alone our larger cities which realizes the necessity for timely regulation of the uses of property. A considerable number of the smaller towns, especially in California, Ohio, Illinois, New Jersey, and New York, either have passed zoning ordinances or have them in an advanced stage of preparation.

In fact, on May 22, 1922, 66 municipalities in the United States were on record as having zoning ordinances already enacted, and 114 were reported to have zoning plans in progress.

Actual experience with zoning regulations has brought to light certain striking facts.

It is stated on reliable authority that the New York zoning regulations have prevented vast depreciation in many districts and effected savings in values amounting to millions of dollars in established sections. Certain districts have been rehabilitated as a direct result of the zoning ordinance. Another interesting result has been the production of a type of high building believed to be far better than the former elongated match-box type.

In an analysis of building permits issued in St. Louis in the first 14 months under the zoning ordinance, it was found that residences tended to follow the residence district and did not even attempt to seek locations in industrial or unrestricted areas. Except commercial buildings, which were built partly in commercial and partly in industrial districts, the development of St. Louis is said to be fitting itself very closely to the zoning plan.

To avoid the common condition that industrial plants encounter of having to do business on a "residential basis," denied large-scale facilities in their vicinity on account of protests by residence owners, Alameda, Calif., among other cities, has established industrial zones in which no new permits to build residences will be granted. A leading municipal engineer is quoted as saying that the prohibition of residences in industrial zones is one of the most important protections to put in a zoning ordinance. This method is being relied upon to develop Hoboken, N. J., as a great industrial terminal.

In New Jersey it has been found that the unzoned suburban town is at a distinct disadvantage as compared with the community protected by a zoning ordinance. People are asking themselves why

they should invest money in a home or lend money on a mortgage in an unprotected, unzoned locality. The zoned towns are actually absorbing the better grade of development. The result has been that builders, architects, and real estate owners in unzoned towns are persistently urging their local councils to adopt zoning, so that they may have as good a selling proposition to offer prospective clients as their competitors in the zoned towns.

WHERE TO GET INFORMATION.

Information concerning zoning progress in States and cities of the United States will be made available by the Division of Building and Housing of the Department of Commerce at Washington, D. C. A selected bibliography of zoning is issued by the Division and may be secured on application.

DEPARTMENT OF COMMERCE.

DIVISION OF BUILDING AND HOUSING.

For several years there has been developing a feeling that some agency of the Federal Government should interest itself in building and housing. The Congress of the United States made an appropriation for such activities for the year 1921–22. The act appropriating the funds says, among other things: "That as much of this sum as necessary shall be used to collect and disseminate such scientific, practical, and statistical information as may be procured, showing or tending to show approved methods in building, planning, and construction, standardization, and adaptability of structural units, including building materials, and codes, economy in the manufacture and utilization of building materials and supplies, and such other matters as may tend to encourage, improve, and cheapen construction and housing."

Accordingly, Secretary Hoover created the Division of Building and Housing, which cooperates with all groups interested in housing and construction, such as architects, builders, building material producers and dealers, building trades labor, contractors, builders' exchanges, realtors, building and loan associations, building inspectors, city officials, and others.

The Division has helped local communities in successfully solving their housing problems. It collects and publishes monthly prices of 24 items of building materials as paid by contractors in different cities. It also makes reports on building activity, such as building permits and contracts awarded, and on general building and housing conditions in the country.

Mr. Hoover has appointed two main committees which cooperate with the Division of Building and Housing. The Advisory Committee on Building Codes, with a Subcommittee on Plumbing, is drafting minimum code requirements for building construction. The Advisory Committee on Zoning is making studies of State enabling acts and zoning ordinances. Its reports should be of distinct aid to communities interested in the promotion of the public welfare and the protection of property values.

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